



AUSTIN RAPP & HARDMAN
170 South Main Street, Suite 735
SALT LAKE CITY UT 84101

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of :
Walter E. RED et al. :
Application No. 10/823,465 : **DECISION ON PETITION**
Filed: April 13, 2004 :
Attorney Docket No. 1737.2.15 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed September 23, 2008, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on November 24, 2008. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief and fee ; (2) the petition fee of 810.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice of Appeal filed September 23, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Technology Center AU 2121 for appropriate action on the concurrently filed appeal brief.

Michelle R. Eason
Paralegal Specialist
Office of Petitions